

### § 230.3

### 36 CFR Ch. II (7–1–12 Edition)

*Local governmental entity.* Any municipal government, county government, or other local government body with jurisdiction over local land use decisions as defined by Federal or State law.

*Nonforest uses.* Activities that threaten forest cover and are inconsistent with the community forest plan, and include the following:

- (1) Subdivision;
- (2) Residential development, except for a caretaker building;
- (3) Mining and nonrenewable resource extraction, except for activities that would not require surface disturbance of the community forest such as directional drilling for oil and gas development or onsite use of gravel from existing gravel pits;
- (4) Industrial use, including the manufacturing of products;
- (5) Commercial use, except for sustainable timber or other renewable resources, and limited compatible commercial activities to support cultural, recreational and educational use of the community forest by the public; and
- (6) Structures and facilities, except for compatible recreational facilities, concession and educational kiosks, energy development for onsite use, facilities associated with appropriate forest management and parking areas; said structures, facilities and parking areas must have minimal impacts to forest and water resources.

*Qualified nonprofit organization.* Defined by the CFP authorizing statute (Pub. L. 110-234; 122 Stat. at 1281), an organization that is described in Section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)) and operates in accordance with one or more of the conservation purposes specified in Section 170(h)(4)(A) of that Code (26 U.S.C. 170(h)(4)(A)). For the purposes of the CFP, a qualified nonprofit organization must meet the following requirements:

(1) Consistent with regulations of the Internal Revenue Service at 26 CFR 1.170A-14(c)(1):

- (i) Have a commitment to protect in perpetuity the purposes for which the tract was acquired under the CFP; and
- (ii) Demonstrate that it has the resources to enforce the protection of the property as a community forest as a

condition of acquiring a tract under the CFP.

(2) Operate primarily or substantially in accordance with one or more of the conservation purposes specified in Section 170(h)(4)(A) of I.R.S. code (26 U.S.C. 170(h)(4)(A)). Conservation purposes include:

(i) The preservation of land areas for outdoor recreation by, or for the education of, the general public,

(ii) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,

(iii) The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or

(iv) The preservation of a historically important land area or a certified historic structure.

*Public access.* Access that is provided on a non-discriminatory basis at reasonable times and places, but may be limited to protect cultural and natural resources or public health and safety.

*State Forester.* The State employee who is responsible for administration and delivery of forestry assistance within a State, or equivalent official.

### § 230.3 Application process.

(a) The Forest Service will issue a national request for applications (RFA) for grants under the CFP. The RFA will be posted to <http://www.grants.gov> as well as other venues. The RFA will include the following information outlined in this final rule:

(1) The process for submitting an application;

(2) Application requirements (§ 230.4);

(3) Review process and criteria that will be used by the Forest Service (§ 230.5); and

(4) Other conditions determined appropriate by the Forest Service.

(b) Pursuant to the RFA, interested eligible entities will submit an application for program participation to:

(1) The State Forester or equivalent official, for applications by local governments and qualified nonprofit organizations, or

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(2) The equivalent officials of the Indian tribe, for applications submitted by an Indian tribe.

(c) Interested eligible entities will also notify the Forest Service, pursuant to the RFA, when submitting an application to the State Forester or equivalent officials of the Indian tribe.

(d) The State Forester or equivalent official of the Indian tribe will forward all applications to the Forest Service, and, as time and resources allow:

(1) Provide a review of each application to help the Forest Service determine:

(i) That the applicant is an eligible entity;

(ii) That the land is eligible;

(iii) That the proposed project has not been submitted for funding consideration under the Forest Legacy Program; and

(iv) Whether the project contributes to a landscape conservation initiative.

(2) Describe what technical assistance provided through CFP they may render in support of implementing the proposed community forest project and an estimate of needed financial assistance (§230.10).

(e) A proposed application cannot be submitted for funding consideration simultaneously for both the CFP and the Forest Service's Forest Legacy Program (16 U.S.C. 2103c).

### § 230.4 Application requirements.

The following section outlines minimum application requirements, but the RFA may include additional requirements.

(a) Documentation verifying that the applicant is an eligible entity and that the proposed acquisition is of eligible lands.

(b) Applications must include the following regarding the property proposed for acquisition:

(1) A description of the property, including acreage and county location;

(2) A description of current land uses, including improvements;

(3) A description of forest type and vegetative cover;

(4) A map of sufficient scale to show the location of the property in relation to roads and other improvements as well as parks, refuges, or other protected lands in the vicinity;

(5) A description of applicable zoning and other land use regulations affecting the property;

(6) Relationship of the property within and its contributions to a landscape conservation initiative; and

(7) A description of any threats of conversion to nonforest uses.

(c) Information regarding the proposed establishment of a community forest, including:

(1) A description of the benefiting community, including demographics, and the associated benefits provided by the proposed land acquisition;

(2) A description of the community involvement to date in the planning of the community forest and of the community involvement anticipated in its long-term management;

(3) An identification of persons and organizations that support the project and their specific role in acquiring the land and establishing and managing the community forest; and

(4) A draft community forest plan. The eligible entity is encouraged to work with the State Forester or equivalent official of the Indian tribe for technical assistance when developing or updating the Community Forest Plan. In addition, the eligible entity is encouraged to work with technical specialists, such as professional foresters, recreation specialists, wildlife biologists, or outdoor education specialists, when developing the Community Forest Plan.

(d) Information regarding the proposed land acquisition, including:

(1) A proposed project budget (§230.6);

(2) The status of due diligence, including signed option or purchase and sale agreement, title search, minerals determination, and appraisal;

(3) Description and status of cost share (secure, pending, commitment letter, etc.) (§230.6);

(4) The status of negotiations with participating landowner(s) including purchase options, contracts, and other terms and conditions of sale;

(5) The proposed timeline for completing the acquisition and establishing the community forest; and

(6) Long term management costs and funding source(s).